

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

VITO BARBOSA,

Defendant.

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Case No. 16 C 9289
Criminal Case No. 04 CR 609

MEMORANDUM ORDER

Pro se prisoner Vito Barbosa (“Barbosa”) continues to regard himself as the ultimate authority in 28 U.S.C. § 2255 (“Section 2255”) proceedings, most recently evidenced by his transmittal of a document captioned “Motion To Reconsider Order Denying Motion To Expedite 28 U.S.C. § 2255 Habeas Petition and Appointment of Counsel (R. 7, 9),” received in the Clerk’s Office on October 28. In it he rejects this Court’s recent arrangement for able counsel from the Federal Defender Program to represent him for his own benefit, insisting instead that “the Government be directed to answer his 2255.”

What Barbosa does not understand (or perhaps refuses to understand) is that this Court’s October 24, 2016 memorandum opinion and order (the “Opinion”) rejected on a substantive basis his effort to call the Supreme Court’s opinion in Mathis v. United States, 136 S. Ct. 2043(2016) to his aid. As the Opinion explained, this Court’s analysis of Mathis has held that the decision there supports, rather than undercuts, the inclusion of two of his youthful burglaries as “violent felonies” for purposes of the Armed Career Criminal Act -- unless, that is,

the counsel designated to assist him is able to dredge up something in the history of those convictions that calls them into question in those terms.

Simply put, Barbosa is not entitled to relief at this time under Section 2255, so that the case is still at the Rule 4(b) stage of the Rules governing Section 2255 Proceedings for the United States District Courts. If, however, the federal defender were to come up with some additional submission that would put what has been said in the Opinion into arguable question, this Court would proceed to order the United States to respond under Rule 5(a) of those Rules. But in the meantime Barbosa is unquestionably not entitled to current release on his own sayso.

A handwritten signature in black ink, reading "Milton I. Shadur". The signature is written in a cursive, flowing style with a horizontal line underneath the name.

Milton I. Shadur
Senior United States District Judge

Date: November 1, 2016